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DONALD J. MCTIGUE
J. COREY COLOMBO
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BEN F.C. WALLACE
MICHAEL P.G. STINZIANO, of counsel

August 31, 2018

Via E-Mail (cela@fec.gov)

Federal Election Commission
Office of Complaints Examination
& Legal Administration
Attn: Kathryn Ross, Paralegal
1050 First Street, NE
Washington, DC 20463

**Re: *Respondents Theresa Gasper and Theresa Gasper for Congress'*
 *Response to August 9, 2018 FEC Letter (MUR 7457)***

To Whom it May Concern:

This office is legal counsel to Theresa Gasper and her campaign committee Theresa Gasper for Congress (C00665471)(the "Committee"),(collectively "the Respondents"). Enclosed is the Statement of Designation of Counsel, which authorizes my law firm to correspond with the Federal Election Commission on the Respondents' behalf.

The Respondents are in receipt of the August 9, 2018 Commission correspondence, which was obtained from the Committee's post office box on August 19, 2018. We respond to Citizens for Turner's ("Complainant") Complaint, which was signed by Deputy Campaign Manager Kevin Doering, and was included with the Commission's correspondence. The Complaint was filed with the Commission's Office of General Counsel on August 2, 2018. For the reasons stated herein, the Committee's event announcement, that was the subject of the Complaint, does not constitute an illegal campaign contribution as alleged in the Complaint.

As an initial matter, the Complaint references several federal laws that are not contained within the Federal Election Campaign Act of 1971 and do not come within the purview of the Commission. For example, the Complainant makes references to "preventing eminent harm" to the tax-exempt status of the universities. See Complaint, Para. 5. These referenced universities are not parties to the Complaint nor are they represented by the Complainant. Complainant also made outrageous claims such as this event announcement could put "at risk both the federal financial aid for students attending these institutions of higher education and the tens of millions of federal dollars that flow to the institutions of higher education themselves (and, in turn, into

the local community)." See Complain, Para. 14. It is presumed that the Complainant cited these extraneous inflammatory allegations in order to provide it to the local news media. Complainant provided the Complaint to the local news media at least a few days before it was even filed at the Commission.¹

By way of background, the event announcement was for a July 12, 2018 event in Dayton, Ohio. The event was promoted as a "higher education fundraiser" in support of Ms. Gasper. The event announcement lists the names of fourteen individuals who were a part of the host committee. The Committee's intention behind listing the universities was for brevity in providing the name of the institution where each individual on the host committee is employed. This is not an uncommon practice on event announcements to provide information about where individuals are from. For example, event announcements sometimes contain a sub-heading of each law firm name where various attorneys on the host committee are from that are collectively hosting a fundraiser. In these instances, those receiving the event announcement would not assume the candidate has the support of every attorney at the law firm. The intention was to use similar sub-headings on the subject event announcement. The host committee for the July 12, 2018 event consisted of the following individuals:

- Sam Dorf, University of Dayton, Associate Professor of Musicology; Early Music Ensemble
- Masha Kisel, University of Dayton, Lecturer
- Karen Bartley, University of Dayton, Lecturer
- Beth Flach, University of Dayton, Academic Coordinator for the Flyers men's and women's basketball
- Patrick Donnelly, University of Dayton, Director of Events of Arena Operations
- Rebecca Cochran, University of Dayton School of Law, Professor Emeritus
- Jessica Barnett, Wright State University, Associate Professor of Sociology and Anthropology
- John Dinsmore, Wright State University, Associate Professor of Marketing
- John Kurokawa, Wright State University, Lecturer of Music
- Melissa Spirek, Wright State University, Professor of Communication
- Derek Petrey, Sinclair Community College, Professor of Spanish, Director of the Center for Teaching and Learning
- Rodney Veal, Sinclair Community College, Adjunct faculty
- Maureen Heacock, Antioch University, University Registrar
- Cynthia Hammond, Central State University, President

The Committee's event announcement was first disseminated on July 9, 2018. The Committee was first contacted about a university's concern regarding the event announcement on the next day, July 10, 2018. The Committee immediately ceased using the initial event announcement and began using a replacement announcement on that same day it was contacted by a university, i.e. July 10, 2018. See attached revised event announcement. Complainant

¹ "Rep. Mike Turner files federal complaint against opponent", Dayton Daily News, July 31, 2018, <https://www.daytondailynews.com/news/national-govt--politics/rep-mike-turner-files-federal-complaint-against-opponent/AAryqVc90KcO0EHyRLszwJ/>

inaccurately accuses Respondents of showing complete disregard after being contacted by a university and continuing to use the initial event announcement. See Complaint, para. 12. At no time, was the Committee attempting to imply that the universities were sponsoring the fundraising event for Ms. Gasper's candidacy. However, the Committee immediately began using a replacement event announcement to address any concerns that the university may have had.

As to the Complainant's alleged violations of the Federal Election Campaign Act of 1971, the use of identifier information of the host committee members' employers does not rise to the level of an in-kind contribution. The term "contribution" is contained in 52 U.S.C. 30101(8)(A) and is defined as "(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office or (ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." By the very definition of "contribution", there could not have been an in-kind contribution, as the universities did not give anything of value to the Respondents. The Complaint itself acknowledges that the universities did not give anything in this instance as they are "prohibited from directly or indirectly participating in, or intervening in, any political campaign." See, e.g., Complaint Para. 15. The Respondents could not accept or receive an in-kind contribution if an in-kind contribution was never given.

Complainant also made some passing references that Respondents knowingly and intentionally misrepresented endorsements of the universities. See Complaint Para. 2. However, Complainant did not make this allegation part of the counts to the Complaint or cite to a particular federal law that was allegedly violated. Accordingly, Respondents have not been provided sufficient notice in order to properly respond. Nevertheless, Respondents dispute that the event announcement contained an endorsement by the universities. Again, these universities' names were identifiers for the individuals of the host committee who were listed below. Further, as explained herein, Respondents did not knowingly or intentionally list the universities' names for the purpose of conveying that Ms. Gasper's candidacy had been endorsed by these institutions.

Respondents request that no action be taken by the Commission in this matter. In short, the Respondents simply were trying to identify the individuals who made up the host committee on an event announcement. The event announcement was used for approximately 24 hours before it was replaced with a new announcement which did not provide the identifiers.

Very truly yours,



J. Corey Colombo, Esq.

Encl.: Statement of Designation of Counsel
Revised Event Announcement



FEDERAL ELECTION COMMISSION
1050 First Street, NE
Washington, DC 20003

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL ecfa@fec.gov

FAX 202-219-3923

AR/MUR/RR/P-MUR#

7457

Name of Counsel:

J. Corey Colombo

Firm:

McTigue & Colombo LLC

Address:

545 East Town Street

Columbus, OH 43215

Office#:

614-263-7000

Fax#:

614-263-7078

Mobile#:

E-mail:

ccolombo@electionlawgroup.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

8/24/18
Date

Theresa Gasper

(Signature - Respondent/Agent/Treasurer)

Candidate
Title

Theresa A Gasper

(Name - Please Print)

RESPONDENT:

Theresa Gasper for Congress / Theresa Gasper
(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address:
(Please Print)

P.O. Box 340428

Beavercreek, OH 45434

Home#:

Mobile#:

Office#:

937-902-9790

Fax#:

E-mail:

theresa@gasperforcongress.com

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

Rev. 2018



FEDERAL ELECTION COMMISSION
1050 First Street, NE
Washington, DC 20003

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL cefa@fec.gov

FAX 202-219-3923

ARMUR/RR/P-MUR#

7457

Name of Counsel: J. COREY COLOMBO AND DONALD J. MCTIGUE

Firm: MCTIGUE + COLOMBO, LLC

Address: 515 E. TOWN STREET

COLUMBUS, OH 43215

Office#: (614) 263-7000 Fax#: (614) 263-7078

Mobile#: (614) 582-6100

E-mail: CCOLOMBO@ELECTIONLAWGROUP.COM

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

09/11/2018
Date

Jennifer May
(Signature - Respondent/Agent/Treasurer)

TREASURER
Title

JENNIFER MAY
(Name - Please Print)

RESPONDENT: THERESA GASPER FOR CONGRESS

(Please print Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address:
(Please Print)

PO BOX 340428

BEAVER CREEK, OH 45434

Home#: _____ Mobile#: _____

Office#: _____ Fax#: _____

E-mail: _____

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Rev. 2018



You are cordially invited to join us for a higher education fundraiser in support of

Theresa Gasper
Democratic Candidate for Congress OH-10

with honored guest

Paul Bradley
Candidate for Ohio State Senate District 5

Host Committee:

Sam Dorf and Masha Kisel | John Dinsmore | Jessica Barnett | Karen Bartley |
Beth Flach | Rodney Veal | Melissa Spirek | Derek Petrey | Patrick Donnelly
|Maureen Heacock | Rebecca Cochran | John Kurokawa

Maxima Cum Laude: \$1,000 | Summa Cum Laude: \$500 |
Magna Cum Laude: \$250 | Cum Laude: \$100 |
Dean's List: \$50

**Price levels are suggested, please contribute what you can.*

Donations are welcome at the door or online beforehand via our secure Act Blue link:
<https://secure.actblue.com/donate/highereducationevent>

Thursday | July 12th | 2018
5 – 7:30pm

Mudlick Tap House
135 E 2nd St. Dayton

Please RSVP to sandersen@gasperforcongress.com by July 10th

**Cash bar, appetizers provided*

Paid for by Theresa Gasper for Congress

1000441-1-1010